



State of Maryland

Final Report to the Governor and General Assembly

Commission on Juvenile Justice Jurisdiction

Parris N. Glendening
Governor

Kathleen Kennedy Townsend
Lt. Governor

Bishop L. Robinson
Secretary, Department of Juvenile Justice

September 30, 2001

TABLE OF CONTENTS

	Page
I. COMMISSION STRUCTURE	Page 1 of 67
A. Commission Members	Page 1 of 67
B. Staff & Research Assistance	Page 2 of 67
II. EXECUTIVE SUMMARY	Page 3 of 67
III. INTRODUCTION	Page 12 of 67
A. History of the Commission	Page 12 of 67
B. Activities of the Commission	Page 12 of 67
1. Chronology of public meetings	Page 13 of 67
2. Facility tours	Page 13 of 67
3. Presentations	Page 14 of 67
4. Research conducted	Page 15 of 67
C. Acknowledgments	Page 16 of 67
IV. BACKGROUND	Page 18 of 67
A. The Maryland Juvenile Justice System	Page 18 of 67
1. Juvenile Causes Act	Page 18 of 67
2. Court Decisions and Constitutional Principles	Page 19 of 67
3. Role of the Juvenile Court and the Department of Juvenile Justice	Page 20 of 67
B. Juvenile Court Jurisdiction	Page 21 of 67
1. Judicial or Discretionary Waiver	Page 22 of 67
2. Statutory or Categorical Exclusion	Page 23 of 67
3. Transfer to Juvenile Court	Page 24 of 67
4. Recent Changes in Maryland Juvenile Court Jurisdiction ..	Page 25 of 67
C. Approaches in Other States	Page 26 of 67
V. FINDINGS	Page 30 of 67
A. Impact of Recent Changes in Juvenile Court Jurisdiction.	Page 30 of 67
1. The Commission did not reach an agreement on the full impact of legislation that excludes young offenders from juvenile court jurisdiction	Page 30 of 67
a. Data collection concerning excluded and waived youth is not adequate or easily attainable.	Page 30 of 67
b. Deep philosophical differences have made agreement difficult	Page 31 of 67
2. Research results	Page 32 of 67

3.	Youth Spend Too Long in Adult Jail Pending Decisions on Whether They Should Be Transferred to Juvenile Court.	Page 33 of 67
4.	It Is Unfair for Youth Charged, But Not Convicted Of, an Excluded Offense to Remain in the Adult System Without Further Possibility of Transfer to the Juvenile Justice System	Page 34 of 67
5.	Maryland's Exclusionary Laws Have a Disproportionate Effect on African American Youth	Page 35 of 67
a.	Disproportionality Is Well Established in Maryland	Page 35 of 67
(i)	Juvenile Justice Advisory Council Studies .	Page 36 of 67
(ii)	The Department of Juvenile Justice 1995 Study	Page 37 of 67
(iii)	Commission Collected Data	Page 37 of 67
(iv)	National Data	Page 38 of 67
b.	Disproportionality is Unfair	Page 39 of 67
c.	Other States Have Made a Serious Effort to Address Disparity	Page 41 of 67
d.	Maryland's System of Categorical Exclusion Contributes to the Disparity	Page 42 of 67
e.	Conclusion	Page 42 of 67
B.	Existing and Alternative Sanction Mechanisms, Incentives and Systems of Incentive, or Education and Special Education Services Provided to Youthful Offenders	Page 44 of 67
C.	Federal Juvenile Justice Legislation	Page 45 of 67
D.	The State Has Implemented Various Strategies to Limit Crimes and Delinquent Acts by Youthful Offenders	Page 47 of 67
1.	There is a need for more complete outcome data to verify the effectiveness of such programs and strategies, especially as they relate to identifying and matching the needs of individual youth.	Page 48 of 67
2.	Although the State has implemented many programs, there is a significant need for additional programs and approaches.	Page 49 of 67
E.	More resources may be needed for decisionmaking in the waiver and transfer process.	Page 49 of 67
VI.	RECOMMENDATIONS	Page 50 of 67
A.	Data Collection Concerning Excluded and Waived Youth Should Be Enhanced	Page 50 of 67

B.	The Process of Deciding Whether a Person Should Be Adjudicated in the Adult Criminal Court or in the Juvenile Justice System Should Be Accelerated	Page 51 of 67
C.	Youth Charged, But Not Convicted Of, an Excluded Offense Should Be Eligible for Transfer to the Juvenile Justice System If Convicted of a Lesser Offense	Page 53 of 67
D.	Further Study is Needed as to Whether Additional Resources Should Be Allocated to the Waiver and Transfer Decision Making Process	Page 54 of 67
E.	A New Commission on Juvenile Justice Jurisdiction, Similar in Structure and Representation to the Current Commission, Should Be Established in 3 to 5 Years	Page 55 of 67
F.	A Youthful Offender Program Merits Further Consideration By the Department of Juvenile Justice	Page 55 of 67
G.	Until More Complete Data Are Obtained, the Commission Is Unable to Recommend Any Fundamental Changes in Maryland Juvenile Jurisdiction.	Page 56 of 67
H.	Judicial Discretion to Waive and Transfer Should Be Maintained	Page 56 of 67
VII.	ENDNOTES	Page 58 of 67
VIII.	REFERENCES & BIBLIOGRAPHY	Page 63 of 67
A.	Publications Reviewed	Page 63 of 67
IX.	APPENDICES	Page 66 of 67

I. COMMISSION STRUCTURE

A. Commission Members

Bishop L. Robinson, Secretary
Department of Juvenile Justice
Chair

Stuart O. Simms, Secretary
Beverly Carter, Esq. (Designee)
Robert Gibson (Alternate)
Department of Public Safety and Correctional Services

Emelda P. Johnson, Secretary
Floyd Wilson, Director of Legislation (Designee)
Department of Human Resources

Nancy S. Grasmick, State Superintendent
JoAnne Carter, Asst. State Superintendent (Designee)
Compensatory Education & Support Services
Maryland State Department of Education

Bonnie Kirkland, Special Secretary
Earl El-Amin (Designee)
Governor's Office of Children, Youth and Families

J. Joseph Curran, Jr., Attorney General of Maryland
Bruce P. Martin, Principal Counsel (Designee)
Office of the Attorney General

David B. Mitchell, Superintendent
Major Thomas Bowers, Designee
Maryland State Police

Stephen E. Harris, Public Defender
David Fishkin (Alternate)
Office of the Public Defender

TWO MEMBERS OF THE STATE JUDICIARY SELECTED BY THE CHIEF JUDGE OF THE COURT OF APPEALS

The Honorable David W. Young
Circuit Court for Baltimore City

The Honorable Dennis M. McHugh
District Court of Maryland, District 6
Vice Chair

THREE MEMBERS OF THE SENATE OF MARYLAND SELECTED BY THE PRESIDENT OF THE SENATE

The Honorable Timothy R. Ferguson
The Honorable Philip C. Jimeno
The Honorable Ralph M. Hughes

THREE MEMBERS OF THE HOUSE OF DELEGATES SELECTED BY THE SPEAKER OF THE HOUSE

The Honorable Joseph F. Vallario
The Honorable Dana Lee Dembrow
The Honorable Kenneth C. Montague, Jr.

**THE FOLLOWING MEMBERS WERE
SELECTED BY THE SECRETARY OF THE DEPARTMENT JUVENILE JUSTICE**

James Craze, Chief
Greenbelt Police Department

Frank Weathersbee, State's Attorney
Office of the State's Attorney for Anne Arundel
County

A REPRESENTATIVE FROM A VICTIMS' ADVOCACY GROUP

Charles Shilling
Stephanie Roper Foundation

**A PERSON WITH A BACKGROUND IN CRIMINAL AND JUVENILE JUSTICE
WHO IS A RECOGNIZED EXPERT IN THE FIELD**

Dr. Henry Brownstein, Director
Graduate Program in Criminology, Criminal Justice & Social Policy
University of Baltimore

COMPUTER SYSTEMS OR DATA PROCESSING EXPERT

Edward Cummins
Acting Director of Information Technology

**A PERSON WHO IS A RECOGNIZED CHILD ADVOCATE
WITH EXPERIENCE IN JUVENILE JUSTICE**

Bart Lubow, Senior Associate
Annie E. Casey Foundation

**A PERSON WHO IS A RECOGNIZED CIVIL RIGHTS ADVOCATE
WITH EXPERIENCE IN JUVENILE JUSTICE**

Jonathan Smith, Executive Director
Public Justice Center

B. Staff & Research Assistance

Lee Towers, the Director of Communications for the Department of Juvenile Justice, provided staff support to the Commission. The Commission would like to express its gratitude to Mr. Towers and his staff, particularly the Commission Facilitators, Lavinia Jackson and Katrina Maultsby, who were responsible for preparing and assembling materials for the Commission meetings.

II. EXECUTIVE SUMMARY

Introduction

The Commission on Juvenile Justice Jurisdiction was created pursuant to Senate Bill 68, enacted by the General Assembly as Chapter 465, Laws of Maryland 1998. The Commission's primary purpose was to examine recent changes in juvenile court jurisdiction and the effects of those changes on youth in the juvenile and criminal justice systems.

The composition of the Commission, chaired by the Secretary of the Department of Juvenile Justice, included a diverse group of individuals with expertise in juvenile and criminal justice issues.

In compliance with its legislative mandate, the Commission met monthly to receive presentations by experts in juvenile justice and related fields; to participate in tours of both juvenile and adult facilities housing youthful offenders; and to engage in discussion and debate on the issues. Academic research into areas requiring clarification or further examination was also conducted at the request of the Commission.

A major research project, entitled "Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report" was arranged through an Intergovernmental Agreement between the Department of Juvenile Justice and the University of Baltimore. The research for this project was directed and conducted by Dr. Cindy J. Smith of the University of Baltimore. Funding for this project was a collaborative effort of the National Institute of Justice (NIJ), the Governor's Office of Crime Control and Prevention (GOCCP), and the Department of Juvenile Justice (DJJ).

Background

The 1994 General Assembly limited the jurisdiction of the juvenile court by adding a number of serious offenses, if committed by a youth at least 16 years old, to those excluded from the juvenile court's jurisdiction. The legislation added the following crimes to the list of offenses already subject to adult court jurisdiction:

- Abduction
- Kidnaping
- Second Degree Murder
- Manslaughter, Except Involuntary Manslaughter
- Mayhem or Maiming
- Second Degree Rape
- Second Degree Sexual Offense [464A, Subsection A1]
- Third Degree Sexual Offense [464B, Subsection A1]
- Crimes in Violation of Art. 27 § 373 and § 374 [Machine Gun Offenses], § 445 and § 446 [Regulated Firearms Offenses], § 481C [Short-barreled Rifles or Shotguns] and § 481E [Assault Weapons]
- Using, Wearing, Carrying, or Transporting a Firearm During and in Relation to a Drug Trafficking Crime
- Use of a Firearm in violation of Article 27, § 291A
- Carjacking or Armed Carjacking
- Assault with Intent to Murder
- Assault with Intent to Rape
- Assault with Intent to Rob
- Assault with Intent to Commit a Sexual Offense in the First or Second Degree.

Prior to 1994, a youth 14 years old or older who was charged with a capital offense, or a youth 16 years old or older who was charged with robbery with a dangerous or deadly weapon, handgun offenses, or non-incarcerable traffic or boating offenses, was excluded from juvenile court jurisdiction and would proceed initially in adult criminal court. Those offenses remained excluded from juvenile court jurisdiction when the above list was enacted in 1994.

The next year the law was amended to return to the section attempted robbery with a dangerous or deadly weapon, which had been “inadvertently” deleted from the law during the 1994

revision. In 1996, the law was changed to reflect the revision of the assault laws. Also in 1996, the law was revised to reflect the repeal of Article 27, § 481E, assault weapons.

The Commission reviewed literature and received testimony from respected national experts concerning states using other permutations to address the issue of juvenile versus adult jurisdiction. The Commission found that Maryland is among 47 states which have some method for waiving a juvenile to adult court, the 24 states which permit a juvenile being prosecuted as an adult to petition for transfer to juvenile court, and the 29 states which statutorily exclude certain cases from juvenile jurisdiction.

FINDINGS

Impact of Recent Changes in Juvenile Court Jurisdiction

- ***The Commission did not reach an agreement on the full impact of legislation that excludes young offenders from juvenile court jurisdiction.***
 - Data collection concerning excluded and waived youth is not adequate or easily attainable
 - Deep philosophical differences have made agreement difficult

- ***Research results***

In the course of her research project entitled “Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report,” Dr. Cindy Smith compared a sample group of youths across four pathway categories (*at risk, reverse waived, waived, and legislatively waived*). She also compared that same group between two processing categories (*juvenile justice system, criminal justice system*). Generally, the findings include the following:

- The majority of the youths in all four groups were males, with females being reverse waived more frequently than males.

- The majority of the youths were low socioeconomic status, and the few that were middle or high socioeconomic status were processed in the juvenile system.
- The majority of the youths were Black and disproportionate to the general population of Maryland.
- The majority of the youths live in urban counties and those processed in the adult system are predominantly from urban counties.
- Youths starting in the juvenile system were more likely to have a mental health assessment and identified with mental health issues.
- Legislatively waived youths were more likely to have had or witnessed serious injury and more likely to have been exposed to trauma, indicating a need for mental health evaluation and services.
- Legislatively waived youths had a larger physical build than any other group.
- Legislatively waived youths have the least family interaction, while those reverse waived back to the juvenile system have the most family interaction.
- Reverse waived youths were more likely to have parents and probation personnel report their behavior changes with discipline than the youths who begin in the juvenile system.
- Most of the youths have education difficulties.
- Reverse waived youths have 4.57 average prior offenses, while at risk youths have 2.31 and waived youths have 8.2. This finding suggests that waived youths are chronic offenders, while legislatively waived youths are serious offenders with few prior criminal justice system contacts.
- Youth processed in the adult system are more likely to be classified as high risk to public safety.
- A small group of youths (7%, n=23) have multiple problems requiring multiple interventions and over half (12 of the 23) of these youths are waived to the criminal justice system.

- ***Youth Spend Too Long in Adult Jail Pending Decisions on Whether They Should Be Transferred to Juvenile Court.***

After extensive hearings, the Commission concluded that the time youth wait in jail pending a court decision on whether their case should be transferred to the jurisdiction of the juvenile court was, in many cases, inexcusably long.

- ***It Is Unfair for Youth Charged, But Not Convicted Of, an Excluded Offense to Remain in the Adult System Without Further Possibility of Transfer to the Juvenile Justice System.***

Youth who are charged with serious crimes excluded from the jurisdiction of the juvenile court may be convicted of lesser crimes as adults, even if they are not found guilty of the more serious offense which formed the basis for their exclusion from the juvenile justice system. A survey of the Commission members revealed a consensus that such youth should be given the opportunity to bring before a court the merits of a transfer to the juvenile justice system for purposes of disposition.

- ***Maryland's Exclusionary Laws Have a Disproportionate Effect on African American Youth.***

- *Disproportionality is Well Established in Maryland*

African American youth are far more likely than their white counter-parts to be subject to punishment in Maryland's criminal justice system. The differing treatment of African American and white youth has repeatedly been studied across the nation and in Maryland. The statistics documenting the disparity in treatment of juveniles based on their race are well known.

- *Disproportionality is Unfair*

There is growing consensus among researchers and policy makers that systemic bias, as well as biased decisionmaking, may contribute to differing treatment based on race.

- *Other States Have Made a Serious Effort to Address Disparity*

States and local jurisdictions across the country have begun a search for solutions. The experience of other states could well guide Maryland to more successful results.

- *Maryland's System of Categorical Exclusion Contributes to the Disparity*

The statistics on disparity are a concern to the Commission, and suggest the possibility that structural and decision-making bias may contribute to the overrepresentation of African American youth in the adult criminal court. The Commission passed a resolution that funding be appropriated for conducting a study on the causes for the overrepresentation of minorities charged or convicted of offenses waived or excluded from juvenile court jurisdiction.

Existing and Alternative Sanction Mechanisms, Incentives and Systems of Incentive, or Education and Special Education Services Provided to Youthful Offenders.

The Commission has concluded that it is evident that insufficient resources are available for the rehabilitation and treatment of youthful offenders in either the adult or juvenile systems.

Federal Juvenile Justice Legislation

Although changes in the federal jurisdiction law have not come to pass since the creation of the Commission in 1998, there is legislation once again pending in Congress.

The State Has Implemented Various Strategies to Limit Crimes and Delinquent Acts by Youthful Offenders.

With the increase of the budget for the Department of Juvenile Justice, funds have been allocated to improve aftercare, enhance the Spotlight on Schools initiative, increase drug testing, and increase residential per diem placements. Reorganization within the Department will enable profound change in the way the agency works. DJJ will operate an integrated system of restorative services that meet the needs of youth and families without compromising public safety.

- *There is a need for more complete outcome data to verify the effectiveness of such programs and strategies, especially as they relate to identifying and matching the needs of individual youth.*

Emphasis is now being placed on results-based evaluations to ensure that future program and strategy assessments can be completed with all pertinent data collected with confidence and available to reviewers.

- *Although the State has implemented many programs, there is a significant need for additional programs and approaches.*

As issues and challenges facing youth are ever changing and ever evolving, constant changes and approaches to dealing with these issues and challenges must change as well. More resources must be dedicated to ensure that programs can be developed as quickly as the issues are identified.

More Resources May Be Needed for Decisionmaking in the Waiver and Transfer Process.

While the Commission members agreed that ensuring adequate resources was essential to process transfer cases in an expeditious manner, the issue was not examined in the depth and detail necessary to support a specific Commission finding and recommendation.

Recommendations

Data Collection Concerning Excluded and Waived Youth Should Be Enhanced.

The lack of clear and confident data available from agencies responsible for their collection was a major obstacle for the Commission. The Commission recommends that DJJ be provided with funding adequate for it to meet its statutory responsibilities concerning data collection and client information.

The Process of Deciding Whether a Person Should Be Adjudicated in the Adult Criminal Court or in the Juvenile Justice System Should Be Accelerated.

Findings that many juveniles remain in adult jails for an inexcusably long time while awaiting determination of whether or not they should be transferred to juvenile court led to the successful recommendation that State law be changed to require identification of those cases involving detained juvenile defendants as soon as possible, alert the various actors in the criminal justice system that such cases are matters that should be addressed in an expedited manner, and create time frames within which the adult criminal courts must decide whether or not to transfer a youth to the juvenile justice system.

Youth Charged, But Not Convicted Of, an Excluded Offense Should Be Eligible for Transfer to the Juvenile Justice System If Convicted of a Lesser Offense.

The law should be amended to require youth who are excluded from juvenile court jurisdiction, but not convicted of the offense which was the basis for that exclusion, to be considered for transfer back to juvenile court for disposition.

Further Study is Needed as to Whether Additional Resources Should Be Allocated to the Waiver and Transfer Decision Making Process

This issue will require further investigation and discussion in order to reach a mutually beneficial solution.

A New Commission on Juvenile Justice Jurisdiction, Similar in Structure and Representation to the Current Commission, Should Be Established in 3 to 5 Years.

It is recommended that a new Commission be charged with considering juvenile and adult jurisdiction issues based on various issues.

A Youthful Offender Program Merits Further Consideration By the Department of Juvenile Justice.

Although there was insufficient time for the Commission to fully consider this complex proposal, significant public policy considerations raised in a proposal submitted by Judges Dennis M. McHugh and David W. Young, merit further consideration.

Until More Complete Data Are Obtained, the Commission Is Unable to Recommend Any Fundamental Changes in Maryland Juvenile Jurisdiction.

A workgroup should be created to develop protocols for an information technology system that would allow for the sharing of information in accordance with applicable federal and State laws, prior to the creation of a new Commission. Otherwise, they will be facing the same issues and problems encountered by the current Commission.

Judicial discretion to waive and transfer should be maintained.

Adequate resources for proper investigations and appropriate training should be provided in the transfer and waiver process. There should also be a requirement added that those eligible to be juvenile judges shall have a current working knowledge of the resources and services available in the juvenile justice system.

III. INTRODUCTION

A. History of the Commission

The Commission on Juvenile Justice Jurisdiction was created pursuant to Senate Bill 68, enacted by the General Assembly as Chapter 465, Laws of Maryland 1998. The Commission's primary purpose was to examine recent changes in juvenile court jurisdiction and the effects of those changes on youth in the juvenile and criminal justice systems. Article 83C, § 2-133(b)(Appendix A).

The creation and activities of the Commission also enabled the State to comply with certain Federal funding requirements. States participating in the Juvenile Accountability Incentive Block Grant program must *consider* adopting State laws, policies, or procedures that establish criminal prosecution by law or direct file for juveniles age 15 or older who are alleged to have committed a serious violent crime.¹ The activities of the Commission complied with that Federal mandate.

B. Activities of the Commission

As directed by Senate Bill 68, the composition of the Commission brought together a diverse group of individuals with expertise in juvenile and criminal justice issues. Individually, each member brought a special focus, whether as a member of the General Assembly or as the Public Defender; whether as a Circuit Court Judge or as the Secretary of the Department of Public Safety and Correctional Services.

In accordance with the law, the Secretary of the Department of Juvenile Justice served as Chair of the Commission. In addition, members of the Commission elected the Honorable Dennis M. McHugh, District Court of Maryland, District 6, as Vice Chair, and he has served in that capacity during the entire term of the Commission.

In compliance with the legislative mandate, the Commission met monthly to receive

presentations by experts in juvenile justice and related fields; to participate in tours of both juvenile and adult facilities housing youthful offenders; and to engage in discussion and debate on the issues as directed by the Chair. Academic research to better assist the members and to gain insight into areas requiring clarification or further examination was also conducted at the request of the Commission.

Additionally, the Annie E. Casey Foundation provided a generous grant that enabled the Commission to hold a one day retreat. The retreat afforded the opportunity for the members to receive informative presentations by three nationally recognized experts on juvenile justice issues, and to participate in discussions with those experts and among the Commission members.

In compliance with the enabling legislation, the Commission issued Reports to the Governor and General Assembly on November 2, 1999, and September 30, 2000. (Appendix F.)

1. Chronology of public meetings

Since the inception of the Commission on Juvenile Justice Jurisdiction, all 27 meetings were open to the public. Notifications of the date, times and locations of each meeting were made in the Maryland Register. Meetings were held at the Headquarters of the Department of Juvenile Justice, or the State House in Annapolis during the legislative session.

2. Facility tours

Commission members took tours of various facilities which have juvenile or young adult offenders: The Charles H. Hickey School in Baltimore County on September 21, 1999; the Patuxent Institution (Youth Program) in Jessup on November 16, 1999; and the Maryland Correctional Training Center in Hagerstown on December 15, 1999.

3. Presentations

The Commission assembled material to review and developed a schedule to address their charge. The first phase was to enjoy the benefits of the knowledge and expertise from within the membership. As a result, Mr. Richard Wiebush, Technical Consultant to the Commission, provided the first presentation to the members, which was an overview of national waiver trends and proposed research of waivers in Maryland. This presentation was intended to be a beginning point to encourage the members to formulate questions and future research requests, which it did. Additional presentations on related issues were given by Commission members Secretary Stuart O. Simms, Robert Gibson, Bart Lubow, Delegate Kenneth C. Montague, Jr., David R. Fishkin, Frank R. Weathersbee, and Bruce P. Martin.

Presentations based on experience and current practices were also given to the Commission. Officials and employees of the Department of Juvenile Justice (Walter G.R. Wirsching, Harry W. Langmead, Ruth Phillips, and Patricia Shea), as well as the Administrative Office of the Courts (William Howard), provided a practical view of the actual application of the various laws and their impact on the youth of Maryland.

The wealth of knowledge and close proximity of local universities also benefitted the Commission. Faculty members from the University of Baltimore (Cindy J. Smith, Ph.D., Kathleen J. Block, Ph.D., and Paul Mastrangelo, Ph.D.), and the University of Maryland, College Park (Charles Wellford, Ph.D.), also made presentations on subjects of interest to the Commission.

Proposals for future legislation offered by non-Commission members were also examined. The Honorable Philip T. Caroom, Circuit Court for Anne Arundel County, provided the members with a proposal for amending the Child In Need of Supervision (CINS) law.

Additionally, on January 29, 2000, a one-day retreat was held at the headquarters of the

Annie E. Casey Foundation in Baltimore, Maryland. An entire day of presentations and discussions afforded members the opportunity to hear directly from noted researchers as they reported their findings on subjects that directly relate to issues faced by the Commission. The following nationally recognized experts presented:

- Melissa Sickmund, Ph.D. - Senior Research Associate for the National Center for Juvenile Justice.
- Jeffery Fagan, Ph.D. - Professor of Sociomedical Sciences and Director of the Center for Violence Research and Prevention at the School of Public Health at Columbia University.
- Donna Bishop, Ph.D.- Professor at the College of Criminal Justice, Northeastern University.

For a complete list of presenters, as well as a description of the material presented, see Appendix C.

4. Research conducted

A major research project, entitled “Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report” was arranged through an Intergovernmental Agreement between the Department of Juvenile Justice and the University of Baltimore. The research for this project was conducted by Dr. Cindy J. Smith of the University of Baltimore. Funding for this project was a collaborative effort of the National Institute of Justice (NIJ), the Governor’s Office of Crime Control and Prevention (GOCCP), and the Department of Juvenile Justice (DJJ).

The principal focus of this project was the issue of juvenile waiver to adult criminal court and the related sentencing outcomes and effects. The project had four goals:

1. Determine the number of youthful offenders housed in adult facilities, their needs, and the particular correctional management issues raised by their presence;
2. Assess the impact of waivers on the numbers of young male offenders

from specific communities, neighborhoods, and families;

3. Assess the length of stay for sanctioned and incarcerated youthful offenders in adult facilities in comparison to a similar group in juvenile facilities; and
4. Support the research needs of the Commission.

Although the Commission reviewed this report, its members did not endorse or adopt the policy recommendations contained therein.

C. Acknowledgments

The Commission wishes to express its gratitude to the following people and organizations for their help. Without their willingness to share their time and skill the Commission's meetings, work, and report would not have been possible.

The Commission thanks Lt. Governor Kathleen Kennedy Townsend for her support of the enabling legislation which created the Commission on Juvenile Justice Jurisdiction, as well as the suggestions she made that helped establish the course of the Commission's deliberations.

The Commission would also like to express its gratitude to the Honorable Stuart O. Simms, Secretary, Department of Public Safety and Correctional Services, and his staff for assisting with the planning of and conducting tours of two adult facilities. Thanks also to the Director of the Patuxent Institution, Richard B. Rosenblatt, and the Warden of the Maryland Correctional Training Center in Hagerstown, J. Michael Stouffer, for their time and cooperation. Also, Marjorie Brown and her staff at the Charles H. Hickey, Jr. School for providing a very insightful opportunity for Commission members when they were given an extensive tour of the facility.

The Commission also wishes to thank Bruce P. Martin, Principal Counsel, Office of the Attorney General, Department of Juvenile Justice, for his assistance in drafting the Final Report of

the Commission.

Finally, the Commission is greatly indebted to Kathy L. Lingo, Management Associate, Office of the Attorney General, for the countless hours she spent working with the Commission's Subcommittee and developing various documents. Her outstanding work included preparation of each version of this Final Report of the Commission, and offering significant editorial suggestions.

IV. BACKGROUND

A. The Maryland Juvenile Justice System

1. Juvenile Causes Act

Maryland has had a separate system for handling certain juvenile offenders since 1830, when the General Assembly passed An Act to Establish a House of Refuge for Juvenile Delinquents. Chapter 64, Laws of Maryland 1830. The Department of Juvenile Services was created by Chapter 126, Laws of Maryland 1966, and was placed within the Department of Health and Mental Hygiene and renamed the Juvenile Services Administration in 1969. Chapter 77, Laws of Maryland 1969. The Juvenile Services Administration was replaced by the Juvenile Services Agency in 1987, Chapter 290, Laws of 1987, and in 1989 the Department of Juvenile Services was created as a principal department of State government, replacing the Juvenile Services Agency. Chapter 539, Laws of Maryland 1989. In 1995 the Department of Juvenile Services was renamed the Department of Juvenile Justice. Chapter 8, Laws of Maryland 1995.

The origin of the juvenile court in the United States is generally attributed to the Illinois Juvenile Court Act of 1899, which established the first juvenile court.² Shortly thereafter, the Maryland General Assembly established a special court for all minors under the age of 16 by creating a “Magistrate for Juvenile Causes” in Baltimore City. Chapter 611, Laws of Maryland 1902. In 1943, the General Assembly abolished the Magistrate for Juvenile Causes and conferred jurisdiction over juvenile proceedings on the Supreme Bench for Baltimore City. Chapter 818, Laws of Maryland 1943. Two years later the Legislature provided that juvenile matters in all the counties would be heard by the circuit courts, Chapter 797, Laws of Maryland 1945.

The law governing juvenile causes and delinquent children was substantially revised by

Chapter 432 of the Act of 1969, and codified in Article 26, § 70-1, *et seq.* That law set up a uniform system for the trial of juvenile causes in Maryland (excepting, however, Montgomery County).³ In 1973 the Juvenile Causes Act was recodified as Title 3, Subtitle 8 of the Courts and Judicial Proceedings Article. Chapter 2, Laws of Maryland 1973, First Special Session. In 1975 the law was recodified to make juvenile procedures uniform across the State. Chapter 554, Laws of Maryland 1975.⁴ During the last legislative session the Juvenile Causes Act was recodified yet again. Chapter 415, Laws of Maryland 2001.⁵ This revision made no substantive changes to the laws related to CINS or delinquent children, but substantially amended the laws related to Children in Need of Assistance (CINA). Effective October 1, 2001, the CINA provisions are fully independent of the CINS and delinquency provisions.

2. Court Decisions and Constitutional Principles

The constitutional landscape for children is different than that for adults. In a variety of contexts the Supreme Court has made it clear that children's rights are not the same as those of adults. *See, e.g., Bethel Sch. Dist. No. 403 v. Fraser*, 478 U.S. 675, 682 (1986)(school discipline for speech); *Bellotti v. Baird*, 443 U.S. 622, 634 (1979)(abortion restrictions); *Ginsberg v. New York*, 390 U.S. 629, 638 (1968)(access to “harmful” reading materials); *Prince v. Massachusetts*, 321 U.S. 158, 168 (1944)(child labor laws). “Traditionally at common law, and still today, unemancipated minors lack some of the most fundamental rights of self-determination--including even the right of liberty in its narrow sense, *i.e.*, the right to come and go at will.” *Vernonia Sch. Dist. 47J v. Acton*, 515 U.S. 646, 654 (1995).

While juveniles do have significant constitutional rights in delinquency proceedings,⁶ the Supreme Court has held that they do not enjoy the full panoply of protections afforded adults in

criminal matters. *See, McKeiver v. Pennsylvania*, 403 U.S. 528 (1971)(no right to jury trial). The Court has recognized that juvenile proceedings are fundamentally different from adult criminal trials, and are designed to provide a balance between flexibility and fundamental fairness. *Schall v. Martin*, 467 U.S. 253, 263 (1984).

In *Kent v. United States*, 383 U.S. 541, 566-67 (1966), the Supreme Court held that juveniles are entitled to due process before being waived to adult criminal court. The Court held that before a juvenile court may waive a child to the adult criminal court it should give the child's counsel access to all records, and generally must consider such factors as the child's age and offense history, and the nature of the instant offense.⁷ Most states that provide for discretionary waiver, including Maryland, use criteria based on the eight factors set out in *Kent*.⁸

3. Role of the Juvenile Court and the Department of Juvenile Justice

The rationale and goals of the juvenile justice system are outlined in the Courts & Judicial Proceedings Article, § 3-802, which states that those purposes are:

- (1) To ensure that the juvenile justice system balances the following objectives for children who have committed delinquent acts:
 - (i) Public safety and the protection of the community;
 - (ii) Accountability of the child to the victim and the community for offenses committed; and
 - (iii) Competency and character development to assist children in becoming responsible and productive members of society;
- (2) To hold parents of children found to be delinquent responsible for the child's behavior and accountable to the victim and the community;
- (3) To hold parents of children found to be delinquent or in need of supervision responsible, where possible, for remedying the circumstances that required the court's intervention;
- (4) To provide for the care, protection, and wholesome mental and physical development of children coming within the provisions of this subtitle; and to provide for a program of treatment, training, and rehabilitation consistent with the child's best interests and the protection of the public interest;
- (5) To conserve and strengthen the child's family ties and to separate

a child from his parents only when necessary for his welfare or in the interest of public safety;

(6) If necessary to remove a child from his home, to secure for him custody, care, and discipline as nearly as possible equivalent to that which should have been given by his parents; and

(7) To provide judicial procedures for carrying out the provisions of this subtitle.

Since 1997, the purposes of the juvenile justice system have incorporated the principles of balanced and restorative justice. Chapter 532, Laws of Maryland 1997. Balanced and restorative justice requires the juvenile justice system to balance three objectives in dealing with children who have committed delinquent acts: (1) public safety; (2) accountability; and (3) competency and character development.⁹ The change in the law reflects the State's effort to focus the juvenile justice system on restorative, victim-centered justice, and to build a comprehensive system of graduated sanctions that balance public safety and community protection with offender accountability to the victim and the community, as well as competency and character development to assist the child in becoming a productive member of society. The Department of Juvenile Justice is the central administrative department for juvenile intake, detention authorization, investigation, probation, protective supervision, and aftercare services, as well as the State juvenile, diagnostic, training, detention, and rehabilitation institutions. Article 83C, § 2-111(a). The Department's goal is to assist youth in reaching their full potential as valuable and positive members of society.

B. Juvenile Court Jurisdiction

All states and the District of Columbia allow juveniles, under certain conditions, to be tried as adults in criminal court.¹⁰ Furthermore, as the National Center for Juvenile Justice has noted, "From 1992 through 1999, 49 states and the District of Columbia passed laws making it easier for juveniles to be tried as adults."¹¹ Maryland was one of those states. While various states use different

transfer mechanisms, Maryland has continued to utilize a combination of judicial (discretionary) waiver and statutory exclusion. A study of four states has indicated that exclusion and waiver to adult court is generally reserved for only the serious cases and dangerous juvenile offenders. “Youth are most likely to be transferred to criminal court if they have injured someone with a weapon (regardless of their background or court history) or if they have a long juvenile court record.”¹²

1. Judicial or Discretionary Waiver

Maryland juvenile court judges have the discretion to waive jurisdiction over individual cases involving juveniles, and allow them to be prosecuted in adult criminal court. This power is known as judicial or discretionary waiver, and it is the most common method states use for transferring juveniles to adult criminal court.¹³ Forty-seven states authorize or require juvenile court judges to waive jurisdiction over certain cases.¹⁴

In Maryland, a juvenile may be tried in adult criminal court if the juvenile court waives the jurisdiction granted by Courts and Judicial Proceedings Article, § 3-804. To be waived into adult court a juvenile must be 15 years old or, if younger than 15, charged with a capital offense (*e.g.*, first degree murder or rape).¹⁵ To waive a child the juvenile court must determine, after a hearing, that the child is unfit for juvenile rehabilitation.¹⁶ For purposes of deciding the waiver, the juvenile court must assume that the child actually committed the offenses in the petition. § 3-817(d)(2). Under the waiver procedure the juvenile court must consider the following five factors in making its determination:

- age of the child;
- mental and physical condition of the child;
- amenability to treatment available in the juvenile system;

- nature of the offense and the child's involvement; and
- public safety.

Additionally, the Court may consider any victim impact statement in determining whether to waive jurisdiction. § 3-817(c)(iii).

2. Statutory or Categorical Exclusion

Although the Juvenile Causes Act gives the juvenile court exclusive original jurisdiction over most crimes committed by minors, certain serious offenses are excluded from the jurisdiction of the juvenile court. Maryland is one of 29 states which have laws excluding certain types of cases from the jurisdiction of the juvenile court, and requiring that they be tried in adult criminal court.¹⁷

In addition to a capital offense by a child at least 14 years old (*e.g.*, first degree murder or rape), and some traffic and boating law violations, serious offenses committed by juveniles at least 16 years old may be tried in the adult criminal courts. So too for robbery with a deadly weapon and, since 1986, handgun offenses committed by a youth 16 or older.

Since October 1, 1994, the following serious offenses committed by juveniles at least 16 years old begin in the jurisdiction of the adult courts:

- violent offenses such as abduction, kidnaping, second degree murder, manslaughter, mayhem, maiming, robbery with a deadly weapon, car jacking, and assault with intent to murder, rape, rob, or commit a sexual offense in the first or second degree;
- crimes involving firearms; and
- serious sexual offenses.

Maryland passed a “once waived, always waived” statute in 1998. Chapter 464, Laws of Maryland 1998. Under that provision, youth with adult felony convictions are charged as adults with any new felonies, but the adult criminal court may transfer (“reverse waive”) them back to juvenile

court under Article 27, § 594A.¹⁸

3. Transfer to Juvenile Court

Maryland is one of 24 states which permits a juvenile who is being prosecuted as an adult in criminal court to petition to have the case transferred to juvenile court for adjudication.¹⁹

An adult criminal court may transfer or “reverse waive” a youth initially excluded from the jurisdiction of the juvenile court to juvenile court if such a waiver is “in the interests of the child or society.” Article 27, § 594A(a). The court must consider the same factors that the juvenile court considers when deciding whether to waive a child to adult court (age, mental and physical condition, amenability to treatment, nature of offense, and public safety). § 594A(c). Moreover, the adult court must consider any victim impact statement.²⁰ The court may also order a minor to be held in a juvenile facility pending the transfer decision. § 594A(f). In most cases, youth charged as adults who are in custody are held in adult jails.

In certain cases the adult criminal court may not transfer a youth to juvenile court. By statute in Maryland, a juvenile is ineligible for transfer to the juvenile court's jurisdiction when the youth has previously been waived to juvenile court and found delinquent; has been convicted of any offense arising in another case excluded from the jurisdiction of the juvenile court; or is charged with first degree murder and was at least 16 years old at the time of the offense.

4. Recent Changes in Maryland Juvenile Court Jurisdiction

The 1994 General Assembly limited the jurisdiction of the juvenile court by adding a number of serious offenses, if committed by a youth at least 16 years old, to those excluded from the juvenile court's jurisdiction. Chapter 641, Laws of Maryland 1994. The legislation added the following crimes to the list (contained in Courts & Judicial Proceedings Article, § 3-804(e)), of offenses

already subject to adult court jurisdiction:

- Abduction
- Kidnaping
- Second Degree Murder
- Manslaughter, Except Involuntary Manslaughter
- Mayhem or Maiming
- Second Degree Rape
- Second Degree Sexual Offense [464A, Subsection A1]
- Third Degree Sexual Offense [464B, Subsection A1]
- Crimes in Violation of Art. 27 § 373 and § 374 [Machine Gun Offenses], § 445 and § 446 [Regulated Firearms Offenses], § 481C [Short-barreled Rifles or Shotguns] and § 481E [Assault Weapons]
- Using, Wearing, Carrying, or Transporting a Firearm During and in Relation to a Drug Trafficking Crime
- Use of a Firearm in violation of Article 27, § 291A
- Carjacking or Armed Carjacking
- Assault with Intent to Murder
- Assault with Intent to Rape
- Assault with Intent to Rob
- Assault with Intent to Commit a Sexual Offense in the First or Second Degree.

Prior to 1994, a youth 14 years old or older who was charged with a capital offense, or a youth 16 years old or older who was charged with robbery with a dangerous or deadly weapon, handgun offenses, or non-incarcerable traffic or boating offenses, was excluded from juvenile court jurisdiction and would proceed initially in adult criminal court. Those offenses remained excluded from juvenile court jurisdiction when the above list was enacted in 1994.

The next year the law was amended to return to the section attempted robbery with a dangerous or deadly weapon, which had been “inadvertently” deleted from the law during the 1994 revision. Chapter 3, Laws of Maryland, 1995.

In 1996, the law was changed to reflect the revision of the assault laws. Assault in the first degree was substituted for mayhem or maiming, assault with intent to murder, assault with intent to rape, assault with intent to rob, and assault with intent to commit a sexual offense in the first or

second degree. Chapter 632, Laws of Maryland, 1996. Also in 1996, the law was revised to reflect the repeal of Article 27, § 481E, assault weapons.

C. Approaches in Other States

As noted above, Maryland is among the 47 states which have some method for waiving a juvenile to adult court, the 24 states which permit a juvenile being prosecuted as an adult to petition for transfer to juvenile court, and the 29 states which statutorily exclude certain cases from juvenile jurisdiction. The Commission reviewed literature and received testimony from respected national experts concerning states using other permutations to address the issue of juvenile versus adult jurisdiction.

One OJJDP sponsored study examined juvenile justice reform in three States: Wisconsin, which categorically excluded all 17-year-olds from juvenile court jurisdiction, and New Mexico and Minnesota, which expanded juvenile court sentencing authority.²¹ In addition to finding that “[m]inorities are overrepresented in the offender categories being subjected to stricter transfer and sentencing provisions,” the study indicated that such laws have significant new resource demands and other unanticipated consequences.²² As a result, the authors encouraged state officials to “commit themselves to the task of collecting and developing the data needed to assess” the effects of reforms which expose juvenile offenders to adult criminal sanctions, so that such research may “provide a solid basis for purposeful legislation.”²³

1. Mandatory waiver

Fifteen states have mandatory waiver statutes under which the juvenile court must waive jurisdiction to adult court if it finds that there is probable cause to believe that the juvenile committed the alleged offense.²⁴ Maryland does not employ mandatory waiver, which differs from

statutory exclusion. As discussed above, if a youth of a certain age commits an excluded offense, the case is filed in adult criminal court and the juvenile court has no role. In mandatory waiver states, the case is filed in juvenile court, where a juvenile judge conducts a preliminary hearing to ensure that the mandatory waiver statute applies prior to transferring the matter to adult court.²⁵

2. Presumptive waiver

Sixteen states designate cases in which there is a rebuttable presumption that waiver to adult criminal court is appropriate.²⁶ In those states, the youth bears the burden of proof in the waiver hearing. Statutory criteria prompting presumptive waiver typically include the seriousness of the offense; the age of the offender; and the youth's prior offense history. States apply these criteria differently, giving more weight to certain factors and less to others. Maryland does not have a presumptive waiver statute.

3. Prosecutorial Discretion or Direct File

Under direct file statutes, sometimes referred to as "concurrent jurisdiction," both the juvenile and adult criminal courts have jurisdiction over a case. These laws give prosecutors the discretion to decide whether to file charges in adult or juvenile court. Unlike judicial waiver, prosecutorial discretion is not subject to judicial review or the *Kent* criteria.²⁷ Although Maryland does not utilize this approach, statutes in 15 states give prosecutors this discretion.²⁸

4. Blended Sentencing

Blended sentencing gives judges flexibility in fashioning sanctions. There are several different models for blended sentencing.²⁹ Judges faced with serious juvenile offenders may choose between juvenile and adult correctional sanctions, or sometimes both.³⁰ Twenty-two states have blended sentencing laws, although Maryland does not.³¹ Studies have shown that blended sentencing

laws tend to encourage plea bargaining and expand judicial and prosecutorial discretion.³²

5. Extended Jurisdiction

Every state has an upper age limit for original juvenile court jurisdiction, as well as a limit on the age to which the juvenile court's jurisdiction may be extended.³³ Maryland, like most other states, permits the juvenile court to commit a delinquent youth to the care and custody of the Department of Juvenile Justice (or the Department of Health and Mental Hygiene) beyond the age at which the juvenile court no longer has jurisdiction over any new offense. Under § 3-806(a), once the juvenile court obtains jurisdiction over a youth, "jurisdiction continues until that person reaches 21 years of age unless terminated sooner." Thus, a youth who has reached the age of majority³⁴ may still be subject to the jurisdiction of the juvenile court. Although extended jurisdiction statutes may be combined with enhancements to the juvenile justice system, they sometimes utilize blended sentencing to enhance sentencing options for more serious and violent offenders.³⁵

6. Youthful Offender Programs

Some states designate certain juveniles as "youthful offenders," and may even create a "third system" between the juvenile and adult systems.³⁶ Typically, these states provide the youthful offender with protections concerning confidential hearings and sealing of records, as well as special programming. An example of a "third system" is Colorado, which in 1993 established a youthful offender system, operated as part of the adult Department of Corrections, which targets young felons found guilty of violent, deadly weapons offenses. The adult criminal court is empowered to sentence such an offender to the DOC, but suspend the sentence pending successful completion of a sentence to the youthful offender system.³⁷ In California, a serious juvenile offender may remain in the custody of an entirely separate system, the California Youth Authority (CYA), until age 25. The

CYA is, in essence, another form of extended jurisdiction, as well as a sentencing option for juveniles convicted in adult court.

In theory, youthful offender systems may obviate the need for exclusion or waiver by combining a specialized environment with enhanced resources. However, the mixing of young adults with older juveniles may create serious security challenges.

V. FINDINGS

A. Impact of Recent Changes in Juvenile Court Jurisdiction.

- 1. The Commission did not reach an agreement on the full impact of legislation that excludes young offenders from juvenile court jurisdiction.**
 - a. Data collection concerning excluded and waived youth is not adequate or easily attainable.**

Research conducted for the Commission by the University of Baltimore (UB) was unable to provide accurate estimates of flows and outcomes of cases in the juvenile and adult systems because of problems with records and automated systems. Partially to address this situation, the General Assembly passed House bill 453, Chapter 227, Laws of Maryland 2001, which requires that the Department of Public Safety and Correctional Services (DPSCS) Criminal Justice Information System (CJIS) to provide, on a monthly basis, information to the University of Maryland Institute of Criminal Justice and Criminology (MICJC) and Maryland Justice Analysis Center (MJAC). The MJAC is then required to analyze these data to describe the flows and outcomes in cases in which juveniles are processed in the adult system. Dr. Charles Wellford, Director, MICJC, provided testimony to the Commission indicating that HB 453 may have inadvertently created a situation which makes the accomplishment of the intended objective difficult.

As discussed elsewhere in this Report, certain youth may be excluded from the juvenile justice system by statute, while others may be waived to the adult system by a juvenile court. Youth excluded from the jurisdiction of the juvenile court may be returned to the juvenile court by an adult court transfer. As the UB report demonstrates, the absence of an automated system that allows the accurate tracking of youth in the juvenile and adult systems makes it difficult to determine precisely

how these cases are handled.

HB 453 sought to ameliorate this problem by requiring CJIS to provide data on youth handled in the adult system to MJAC. To protect the identities of the youth, HB 453 prohibited supplying MJAC with “any unique identifiers” with the data. Criminal Procedure Article, § 10-219(b)(3). According to Dr. Wellford, this means that the data provided cannot track individual cases, thus rendering it of limited value for the research purposes intended by the legislation. Dr. Wellford indicated that without unique identifiers MJAC would be unable to determine which excluded cases were returned to juvenile court, and if decisions reflect offense, age, region or any other differences in the cases. While MJAC would be able to tell how juveniles were disposed of in adult courts, it would not be able to determine anything about how juvenile case and processing characteristics influence these outcomes. In addition, post trial outcomes would not be included in these data. To the extent reported by the courts, CJIS does have data on the adjudication of juveniles in adult court, including referrals back to juvenile court. Dr. Wellford indicated that these data, combined with data from the juvenile system and the DPSCS, could provide a detailed description of how juveniles are processed and what happens to them after court.

The Commission found merit in Dr. Wellford’s concerns. Permitting MJAC to gain access to existing data in different systems, with appropriate confidentiality safeguards, would greatly advance the ability of researchers to inform State policy-makers.

b. Deep philosophical differences have made agreement difficult.

As discussed above, one of the major obstacles encountered by the Commission was the lack of clear and confident data available from agencies responsible for their collection. Data that was collected concerning excluded and waived youth was not adequate or easily attainable. Because of

this, members of the Commission could not reach an agreement on the full impact of legislation that excludes young offenders from juvenile court jurisdiction.

Another factor that influenced the inability of the Commission to reach an agreement, was the deep philosophical differences of the members. Many presentations were made to the Commission covering a broad range of topics and issues germane to juvenile court jurisdiction. Despite these efforts, and after much discussion, the differences of opinion were too great to overcome.

2. Research results

In the course of her research project entitled “Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report,” Dr. Cindy Smith compared a sample group of youths across four pathway categories (*at risk, reverse waived, waived, and legislatively waived*). She also compared that same group between two processing categories (*juvenile justice system, criminal justice system*). Generally, the findings include the following:

- The majority of the youths in all four groups were males, with females being reverse waived more frequently than males.
- The majority of the youths were low socioeconomic status, and the few that were middle or high socioeconomic status were processed in the juvenile system.
- The majority of the youths were Black and disproportionate to the general population of Maryland.
- The majority of the youths live in urban counties and those processed in the adult system are predominantly from urban counties.
- Youths starting in the juvenile system were more likely to have a mental health assessment and identified with mental health issues.
- Legislatively waived youths were more likely to have had or witnessed serious injury and more likely to have been exposed to trauma, indicating a need for mental health

evaluation and services.

- Legislatively waived youths had a larger physical build than any other group.
- Legislatively waived youths have the least family interaction, while those reverse waived back to the juvenile system have the most family interaction.
- Reverse waived youths were more likely to have parents and probation personnel report their behavior changes with discipline than the youths who begin in the juvenile system.
- Most of the youths have education difficulties.
- Reverse waived youths have 4.57 average prior offenses, while at risk youths have 2.31 and waived youths have 8.2. This finding suggests that waived youths are chronic offenders, while legislatively waived youths are serious offenders with few prior criminal justice system contacts.
- Youth processed in the adult system are more likely to be classified as high risk to public safety.
- A small group of youths (7%, n=23) have multiple problems requiring multiple interventions and over half (12 of the 23) of these youths are waived to the criminal justice system.

3. Youth Spend Too Long in Adult Jail Pending Decisions on Whether They Should Be Transferred to Juvenile Court.

After extensive hearings, the Commission concluded that the time youth wait in jail pending a court decision on whether their case should be transferred to the jurisdiction of the juvenile court was, in too many cases, inexcusably long. Research conducted for the Commission found that of 104 youth studied who were charged as adults and detained in the Baltimore City Detention Center (BCDC), 71 spent an average of 183 days from the time of their arrest until disposition.³⁸

Testimony presented to the Commission indicated that no single point in the criminal justice system could be identified as the culprit in this processing delay. For example, while the research demonstrated that an average of 120 days elapsed between the date of arrest and the issuance of a

court order for a waiver or transfer report,³⁹ the Commission found that much of that delay was attributable to the logistics of: transferring files from District Court to the Circuit Court after a bail review hearing; retaining and consulting with defense counsel; deciding whether or not to file a petition requesting a transfer; and setting an initial hearing on the transfer petition. These routine, built-in delays, naturally tended to slow the court decision-making process.

The Commission found that in order to accelerate the process of deciding whether a person should be adjudicated in the adult criminal court or in the juvenile justice system, it would be necessary to identify those cases as soon as possible and alert the various actors in the criminal justice system that such cases are matters which should be addressed in an expedited manner.

4. It Is Unfair for Youth Charged, But Not Convicted Of, an Excluded Offense to Remain in the Adult System Without Further Possibility of Transfer to the Juvenile Justice System.

Youth who are charged with serious crimes excluded from the jurisdiction of the juvenile court may be convicted of lesser crimes as adults even if they are not found guilty of the more serious offense which formed the basis for their exclusion from the juvenile justice system. When the charges that are a predicate to criminal jurisdiction do not result in conviction, it is unfair to continue using the original charge as the basis for adult criminal jurisdiction without requiring the criminal court, at sentencing, to consider the possibility of transfer to the juvenile justice system for disposition.

A survey of Commission members conducted by the Subcommittee revealed a Commission consensus that such youth be given the opportunity to bring before the court the merits of a transfer for purposes of disposition. *See* Appendix K.

5. Maryland's Exclusionary Laws Have a Disproportionate Effect on

African American Youth

African American youth are far more likely than their white counter-parts to be subject to punishment in Maryland's criminal justice system. This is especially true for youth subject to exclusion from the jurisdiction of the juvenile court. The State of Maryland has, for more than a decade, studied whether, and to what extent, disproportionality exists and has consistently found dramatic disparities in the treatment of white and African American youth. Some Commission members conclude that bias in the system contributes to this disparity, while others believe that further study is needed to identify the causes of disparity. The Commission recommends that further study identify strategies and programs that can be implemented to reduce the disproportionate representation of minority youth in the criminal justice system. The study should identify the role of the criminal justice system in creating the disparity.

a. Disproportionality Is Well Established in Maryland

The differing treatment of African American and white youth has repeatedly been studied across the nation and in Maryland. Study after study has established that young people of color are more likely to encounter the criminal justice system than their white counter-parts and are more likely to be subjected to harsher penalties. Although economic factors and racism in the broader society may play a role in creating this disparity, the structure of the criminal justice system and individual decisions in specific cases exacerbate the problem.

The disparity between white and African American youth increases at each step deeper into the criminal justice system. While approximately one-half of youth arrested in Maryland are African American, more than 60% of youth waived to adult criminal court⁴⁰ and almost 80% of those charged with excluded offenses are Black.⁴¹ Thus, there is reason to be concerned that Maryland's system of

categorical exclusion from the juvenile court, based on the offense charged, may contribute to the differing treatment between racial groups. The Commission encourages the General Assembly to enact such legislation as is necessary to eliminate any bias that may be contributing to this disparity.

The statistics documenting the disparity in treatment of juveniles based on their race are well known. The following briefly describes some of the research that was presented to the Commission on Juvenile Justice Jurisdiction during its deliberations.

(i) Juvenile Justice Advisory Council Studies

In 1992, David M. Altschuler, Ph.D., published a report entitled “Minority Overrepresentation in the Maryland Juvenile Justice System: Statistics and Explanatory Factors.” Dr. Altschuler found that in 1990 there were more than 37,000 arrests of juveniles in Maryland and of those arrests, approximately 48% were white and 51% were African American. Dr. Altschuler also provided information about the handling of cases. His report found that African American youth were more likely to face formal charges. While only 35% of white youth were subjected to formal proceedings, 62% of African American youth received formal treatment. Dr. Altschuler repeated his study in 1993 and 1994. His findings were very similar in each subsequent year.⁴²

(ii) The Department of Juvenile Justice 1995 Study

In the wake of the JJAC reports, and growing national interest in efforts to mitigate the negative impacts of the disparate treatment of Black youth, in 1995, former Secretary of Juvenile Justice, Stuart O. Simms,⁴³ commissioned a study of the problem. That report concluded that:

African-American male youths were overrepresented at each decision point in the Maryland juvenile justice system. Their intake referral rate was two times more than their rate of representation in the State population. At the secure commitment point, i.e., “deep end” of the system, African-American male youth representation was 4.23 times

more than their representation in the state population⁴⁴

DJJ's report concluded:

The findings of this study reveal that African-American males are disproportionately referred to DJJ intake and, once referred, are disproportionately represented in more severe dispositions than are white males. From the initial contact with the police through the final disposition, the juvenile justice system needs to be committed to correcting overrepresentation for all young offenders. . . The data presented in the study raises issues of major concern for all the decision makers in the juvenile justice system.⁴⁵

(iii) Commission Collected Data

The Commission on Juvenile Justice Jurisdiction has also collected data on disproportionality. The Commission received a report from the Maryland Department of Planning entitled "*Disproportionate Representation of Minority Youth in Maryland's Juvenile Justice System*," 1993. The Department, using 1993 data, concluded that African American youth make up 35% of the youthful population, 54% of juvenile arrests, 54% of DJJ intakes, 66% of formalized cases, 71% of detained youth and 78% of youth in secure confinement.⁴⁶

In March 2000, at the request of the Commission, the National Council on Crime and Delinquency provided the Commission with statistics about the characteristics of Baltimore City youth involved in transfer hearings. The study revealed the disproportionate racial impact of Maryland's exclusionary laws. As part of a snap shot study NCCD found that 88% of excluded children in Baltimore City who sought transfer were African-American. Data from the Baltimore City Police Department, show that 93% of the juveniles arrested in 1999 were African American, far more than their percentage in the general population of Baltimore City, which is 65%.⁴⁷ State-wide, 79% of excluded youth involved in transfer hearings were African American.⁴⁸

The Commission also requested and received a report from Cindy J. Smith, Ph.D, a professor of Criminal Justice at the University of Baltimore. Although Dr. Smith's research efforts were hampered by the poor systems for data collection in the State, she did produce significant findings. Dr. Smith found that 73.8% of waived youth and 94.2% of excluded youth are African American.⁴⁹

(iv) National Data

There has been a plethora of research on the issue of disproportionality and the experience in Maryland is consistent with that of other states. According to federally collected statistics, African American youth are 15% of the national population between the ages of 10 and 17 years. Nevertheless, they make up 26% of juvenile arrests, 45% of juvenile detentions, 46% of youth waived to adult criminal court and 60% of youth committed to state prison.⁵⁰

During the Commission's tenure, Building Blocks for Youth published a nation-wide study on the differing treatment of youth based on race in the decision to confine a young person in an adult correctional institution. The study examined the experience of 18 cities, including Baltimore. The report similarly documented the dramatic difference in rates of adult prosecution and adult incarceration for white and African American youth.⁵¹ The report found, based on national data:

African Americans were:

- 15% of the youth under 18.
- 26% of juvenile arrests.
- 31% of referrals to juvenile court.
- 44% of the detained population.
- 34% of youth formally processed by the juvenile court.
- 32% of youth adjudicated delinquent.

- 46% of youth judicially waived to criminal court.
- 40% of youth in residential placement.
- 58% of youth admitted to state adult prison for violent offenses⁵²

Nationwide, 60% of newly incarcerated persons under the age of 18 are Black, while 46% of newly incarcerated adults are Black.⁵³ These statistics alone raise questions about the existence of inequity in the system and whether exclusion laws may contribute to disproportionality.⁵⁴

b. Disproportionality is Unfair

There is a growing consensus among some researchers and policy makers that systemic bias, as well as biased decisionmaking, contribute to differing treatment based on race. In its recent report on the subject, the United States Department of Justice concluded that:

there is substantial evidence that minority youth are often treated differently from majority youth within the juvenile justice system . . . [A]pproximately two thirds of the studies examined showed that racial and/or ethnic status did influence decisionmaking within the juvenile justice system Thus, existing research suggests that race/ethnicity does make a difference in juvenile justice decisions in some jurisdictions at least some of the time.⁵⁵

Building Blocks for Youth found that the differing rates of adult prosecution and incarceration cannot be explained by different levels of criminal behavior in various racial groups. A survey of existing research found that an overwhelming majority of scholars concluded that the “race effects” of police, prosecutorial and other criminal justice decision making contributes to the differing treatment of white and African American youth. “African American juveniles are overrepresented with respect to their proportion in the population at every decision point in the process.” Significantly, this difference in treatment was true regardless of the stage of the

proceedings or the offense charged. The report found: “Minority youth were much more likely than White youth to be waived to criminal court even when charged with a similar offense. This was true for every offense category.”⁵⁶ Building Blocks concluded:

Disproportionate representation is not the same thing as racial bias. Some argue that over-representation of minority youth in the justice system is simply the result of minority youth committing more crimes than White youth. Even when that is the case, a fair analysis, however, requires consideration of police practices such as targeting patrols in low-income neighborhoods, locations of offenses (on the street or in homes), differences in delinquent behavior by minority and White youth, differential reactions of crime victims to offenses committed by White or minority youth, and racial bias by decisionmakers in the system.⁵⁷

The Annie E. Casey Foundation also found that bias contributes to disparity:

The disproportionate confinement of minorities is the cumulative consequence of individual decisions made at each point in the juvenile justice process — from the practices of police officers, who make the first decision about releasing or locking up kids, to the assessments of probation officers, judges, and others who determine the risks posed by a youth. “At each stage of the juvenile justice process, there’s a slight empirical bias,” says Jeffrey Butts of the Urban Institute. “And the problem is that the slight empirical bias at every stage of decision making accumulates throughout the whole process. By the time you reach the end, you have virtually all minorities in the deep end of the system.”⁵⁸

Even Congress has recognized that the over representation of African American youth in the justice system is a problem caused, at least in part, by the structure and functioning of the justice system. In 1988, Congress recognized that disparity in the treatment of minority youth is a serious concern and enacted amendments to the Juvenile Justice and Delinquency Protection Act to require the United States Justice Department to “establish a discretionary program to reduce the proportion

of juveniles detained or confined . . . if the proportion exceeded the proportion such groups represented in the general populations.”⁵⁹ In 1992, addressing DMC was elevated to a core requirement of the JJDP Act, with States failing to demonstrate efforts to reduce the overrepresentation of minority youth in confinement at risk of forfeiting 25 percent of their annual formula grants allocation.⁶⁰

c. Other States Have Made a Serious Effort to Address Disparity

States and local jurisdictions across the country have begun a search for solutions. Since 1988, the federal government has made grants to states to address the disparity. Some programs have been successful and others have failed, but the experience of other states could well guide Maryland to a more successful result.⁶¹ Pennsylvania, Arizona, Florida, Iowa, North Carolina, and Oregon have all accepted that their systems contain bias and have begun programs to bring about change. Maryland should continue investigating strategies to eliminate unwarranted disparity. The problem will not be adequately addressed until State officials and policymakers begin to study the causes of disproportionality and implement programs and reforms that will re-balance the scales of justice.

d. Maryland’s System of Categorical Exclusion Contributes to the Disparity

In light of the disparate treatment of white and minority youth, concerns about the fairness and effectiveness of Maryland’s system of categorical exclusion based on charge are heightened. Research sponsored by the U.S. Department of Justice concluded: “[Adult criminal treatment] does not appreciably increase the certainty to severity of sanctions. While transfer may increase the length of confinement for a minority of the most serious offenders, the majority of transferred youths receive sentences that are comparable to sanctions already available in the juvenile system. More

important, there is no evidence that young offenders handled in criminal court are less likely to recidivate than those remaining in juvenile court."⁶²

e. Conclusion

The statistics on disparity concern the Commission and suggest the possibility that structural and decision-making bias may contribute to the overrepresentation of African American youth in the adult criminal court. To address this concern, the Commission recommends further study. It passed the following resolution:

The Commission on Juvenile Justice Jurisdiction recommends that funding be appropriated for conducting a study on the causes for the overrepresentation of minorities charged or convicted for offenses waived or excluded from juvenile court jurisdiction. The study should also identify strategies for reducing any unwarranted racial disparity in the treatment of these juveniles.

Data has been presented to the Commission that shows disparities in the involvement of minority youth in the Maryland juvenile and adult criminal justice systems. This disparity is reflected in minority offenders being significantly over-represented relative to their proportion found in the general population of Maryland. When available data on decisions regarding juvenile jurisdiction are examined, the disparity can be found at various stages of criminal processing. The overrepresentation of minorities can occur at arrest, in pretrial confinement, during the establishment of judicial jurisdiction, and in post-trial confinement. The existence of such disproportionate representation of minorities in the criminal justice system raises concerns about fairness and equality of treatment for these juveniles.

Unfortunately, available research has been unable to isolate the causes for the persistent overrepresentation of minority juveniles within the justice system. Different views were held by

Commission members on the root of the problems. Often at issue is whether the racial disproportion is caused by differences in behavior between dissimilar groups of juvenile offenders or whether biases in the laws and their application create unwarranted disparity. Biases can often be subtle and difficult to confirm. The need is to conduct a comprehensive and disciplined study of these issues with an emphasis on identifying sources of unwarranted disparity and strategies to eliminate such disparities.

The Commission applauds the Department of Juvenile Justice for its commitment to the conduct of a qualitative study to determine more precisely how and why overrepresentation of minorities exists in the juvenile justice system, and to find successful strategies for reducing that disparity.⁶³ The Department's recognition of the profound effect of overrepresentation in the juvenile justice system, and the need to study those effects, bolsters the Commission's recommendation that such studies must be undertaken regarding the effects of the disproportionate minority representation of youth in the adult criminal justice system.⁶⁴

Due to the negative consequences of discriminatory treatment in any criminal justice system, it is critical that any such causes for disparity be identified by providing sufficient funding to examine all facets of the juvenile jurisdiction process. There is no longer a need to document disparity, but instead immediate attention must be placed on the reasons for and possible solutions to such unwarranted disparity. The Commission found that automated information concerning the processing of juveniles through the adult court is minimal and in a format that restricts the study of their treatment from arrest through final disposition. The Commission understands that a systematic study of all disparity issues will require extensive manual data collection, which can be very costly. In addition, due to potential geographic processing differences, the study must be conducted using

statewide data to insure corrective action can be applied where needed despite increased cost factors. Without a significant commitment of funds to fully study the juvenile jurisdictional processes, the question of fairness will continue to plague the system.

B. Existing and Alternative Sanction Mechanisms, Incentives and Systems of Incentive, or Education and Special Education Services Provided to Youthful Offenders.

Based upon the collective expertise of the Commission members, it is evident, that insufficient resources are available for the rehabilitation and treatment of youthful offenders in either the adult or juvenile systems. Many of the youth in both systems need a variety of services from substance abuse treatment to special education. Confinement to a facility provides an opportunity that should not be missed.

C. Federal Juvenile Justice Legislation

The dramatic changes in Federal juvenile law which were anticipated when the Commission was created in 1998 have not yet come to pass. Nevertheless, legislation once again pending in Congress is moving. On September 20, 2001, the House approved H.R. 1900, the Juvenile Crime Control & Delinquency Prevention Act of 2001. A similar version of H.R. 1900 was approved by the House as an amendment to the juvenile justice reauthorization bill (H.R. 1501) on June 17, 1999.

H.R. 1900 would consolidate five federal juvenile justice programs, including boot camps, mentoring, treatment programs for child abuse and neglect victims, and state challenge activities into a single Prevention Block Grant. Additionally, it would allocate 50% of the two-year block grant to states on the basis of their relative populations of people under age 18. The other half is allocated based on the annual average number of serious crimes committed in the state.

The bill would allow state and local governments to use grant funding for a number of activities including mentoring and educational programs, expanded probation services, alcohol and drug dependency services for juveniles, and research on abused, neglected, missing, and exploited children. H.R.1900 also changes the “sight and sound” requirement for juveniles detained in adult facilities to prohibit physical contact between a juvenile and an adult inmate, and extends the period of time for which juveniles may be held in a facility with adults, before an initial court appearance, from 24 to 48 hours. The bill would prohibit “regular” contact, but allow incidental, supervised contact between adult and juvenile detainees (such as passing in the hallways). The bill would also permit shared staff to work with juveniles, provided the staff has been trained to work with youth.

Finally, H.R. 1900 would prohibit states from establishing numerical standards or quotas in relation to the requirement that states address the disproportionate number of minorities in contact with the juvenile justice system.

Another bill, the Consequences for Juvenile Offenders Act of 2001 (H.R. 863), was reported by the Committee on Judiciary on April 20, 2001. H.R. 863 establishes a grant program providing financial incentives to states who employ graduated sanctions in their juvenile justice system. The bill authorizes the Justice Department to make grants to states and units of local government to strengthen their juvenile justice systems by increasing accountability for juvenile offenders. The bill authorizes a total of \$1.5 billion (\$500 million annually), through FY 2004.

The funds received under this bill must be used to strengthen the juvenile justice system. The bill sets out a number of specific uses of funds that would satisfy the requirement. To be eligible to receive a grant, a state must submit an application which includes assurances that the state has in effect, or will have in effect not later than one year after the date a state submits such application,

a system of graduated sanctions. A state may qualify even if its system of graduated sanctions is discretionary. In states where the imposition of graduated sanctions is discretionary, those juvenile courts that do not impose graduated sanctions must report at least annually as to why graduated sanctions were not imposed in all such cases. Funds are allocated to states based on their relative juvenile population. Seventy-five percent of the funds allocated to a state are passed through to units of local government. The actual award amount to a unit of local government is based on a combination of law enforcement expenditures and “Part 1” violent crimes in each unit of local government.

D. The State Has Implemented Various Strategies to Limit Crimes and Delinquent Acts by Youthful Offenders

Governor Parris N. Glendening and Lt. Governor Kathleen Kennedy Townsend worked with the General Assembly to increase DJJ's budget by approximately \$19.1 million in FY 01 and \$12.1 million in FY 02. Funds were allocated to improve aftercare, enhance the Spotlight on Schools initiative, increase drug testing, and increase residential per diem placements.

Since April 2000, DJJ has been significantly reorganized to reduce bureaucracy and expand the responsibility of local area directors. In addition, Admissions, Community supervision, and Residential Services have been consolidated into a single Division of Restorative Justice Operations.

DJJ's organizational changes will enable a profound change in the way the agency works. DJJ will operate an integrated system of restorative services that meet the needs of youth and families without compromising public safety. It will feature a wider range of intensified community-based interventions to hold juveniles accountable for their behavior.

Programs and initiatives have been developed in an effort to meet the ever-changing needs of the juveniles currently in the care and custody of the DJJ and DPSCS. Because of the diverse nature of the needs to be addressed, there are many programs covering a broad spectrum of treatment options. Some of these Programs are prevention based, some are intervention oriented, while the remainder are intended to be rehabilitative. Although not a comprehensive review of all DJJ and DPSCS programs, Appendix O contains a description of the following programs currently in operation:

- Diversion, Early Intervention, and Comprehensive Strategy
 - 1. Drug Court
 - 2. Spotlight on Schools
 - 3. HotSpots

- 4. Diversion and Early Intervention
- 5. Comprehensive Strategy
- DJJ Treatment Programs
 - 1. The O'Farrell Youth Center
 - 2. William Donald Schaefer House
 - 3. Maryland Youth Residence Center
- Department of Public Safety and Correctional Services Programs
 - 1. Division of Correction
 - 2. Division of Correction Youthful Offender Unit
 - 3. Patuxent Institution Youth Program
- Female Intervention Team
 - 1. Girl Scouts
 - 2. Academic Career Enrichment
 - 3. Rites of Passage
 - 4. Pregnancy Prevention
 - 5. Teen Parenting Group
 - 6. Parent Support Group
 - 7. Substance Abuse Group
- Detention Response Unit, Detention Reduction and Advocacy Program and Detention Alternatives
 - 1. Detention Response Unit
 - 2. Detention Reduction and Advocacy Program
 - 3. Detention Alternatives
- 1. **There is a need for more complete outcome data to verify the effectiveness of such programs and strategies, especially as they relate to identifying and matching the needs of individual youth.**

Queries to those agencies responsible for the previously mentioned programs and strategies for supporting data has proven to be disappointing. In some cases, data was either not collected or maintained, or was improperly collected. This created difficulties in assisting any efforts to evaluate effectiveness. However, recent changes in data collection policies at those agencies have been encouraging. Emphasis will now be placed on results-based evaluations to ensure that future program

and strategy assessments can be completed with all pertinent data collected with confidence and available to reviewers.

2. Although the State has implemented many programs, there is a significant need for additional programs and approaches.

Issues and challenges facing youth are ever changing and ever evolving. Because of these constant changes, approaches to dealing with these same issues and challenges must change as well. In some cases, pro-active approaches show success but it requires a tremendous effort to stay in touch with youth behavior. Unfortunately, many approaches continue to be re-active, after the situation or issue has been established. We must dedicate more resources to ensure that programs can be developed as quickly as the issues are identified. Prolonging an appropriate response not only postpones the delivery of services, it also reduces the possibility for success.

E. More resources may be needed for decisionmaking in the waiver and transfer process.

The Commission discussed whether those involved in the transfer (“reverse waiver”) process have adequate resources for proper investigations and appropriate training. This concern includes State’s Attorneys, Office of the Public Defender, the Department of Juvenile Justice, and the Courts. While the Commission members agreed that ensuring adequate resources was essential to process transfer cases in an expeditious manner, the issue was not examined in the depth and detail necessary to support a specific Commission finding and recommendation. Providing additional resources would likely improve the quality of service in these cases, however, the issue requires further investigation and discussion.

VI. RECOMMENDATIONS

A. Data Collection Concerning Excluded and Waived Youth Should Be Enhanced.

A major obstacle encountered by the Commission was the lack of clear and confident data available from agencies responsible for their collection. While agencies do collect some data, specific data sets of interest to the Commission were not collected. This led to a great deal of effort expended on hand searches. This proved to be more time consuming and extremely inefficient.

Relevant recidivism and other outcome reports should be generated on a regular, ongoing basis. Advances in technology should be utilized to their full potential. Information technology is available that would preclude future efforts to examine these issues from the time consuming hand searching of files that was required by this Commission.

One of the agencies that has the potential to provide the most information in examining this issue is the Department of Juvenile Justice. However, the current information technology system operated by DJJ either is not reliable or fails to capture information required by the researchers. Most of the inadequacies are directly attributable to the computer hardware and software currently in place. It is strongly recommended by the Commission that the Department of Juvenile Justice be provided with funding adequate for it to meet its statutory responsibilities concerning data collection and client information:

The Secretary is responsible for the development, implementation, and maintenance of a comprehensive client information system, including an individual current record on each child, that is integrated in, and accessible to, the various segments of the Department. The Secretary shall undertake efforts to link the system to the Department of Health and Mental Hygiene and the Department of Human Resources for the purpose of allowing the exchange of information on clients being served by each department. Article 83C, § 2-104(k).

As discussed in Findings V.1.a., Criminal Procedure Article, § 10-219(b)(3), (as amended by HB 453), should be amended to allow unique identifiers to be provided with the data given to the MJAC. MJAC should demonstrate that the security it provides to the data assures confidentiality.

The Commission considered and voted to support legislation to accomplish these goals. A draft of such proposed legislation is included as Appendix E.

B. The Process of Deciding Whether a Person Should Be Adjudicated in the Adult Criminal Court or in the Juvenile Justice System Should Be Accelerated.

On September 27, 2000, the Commission voted unanimously to adopt, with amendments, the recommendations of its Subcommittee on Transfer Time Limits. (Appendix B). The Subcommittee found that many juveniles remain in adult jail for an inexcusably long time while awaiting a determination of whether or not they should be transferred to juvenile court. In order to accelerate the process, the Subcommittee recommended that State law be changed to require identification of those cases involving detained juvenile defendants as soon as possible, alert the various actors in the criminal justice system that such cases are matters that should be addressed in an expedited manner, and create time frames within which the adult criminal courts must decide whether or not to transfer a youth to the juvenile justice system. The Commission also requested that the Governor and the General Assembly provide adequate funding to the Courts, State's Attorneys, Department of Juvenile Justice, and Office of the Public Defender in order to properly implement this needed reform.

During the 2001 Session of the General Assembly, the Commission's legislative members, on behalf of the Commission, introduced legislation reflecting the findings of the Commission. Senate Bill 353 and House Bill 294. This legislation, expediting the time required to process transfers from adult to juvenile court, was enacted as Chapter 463, Laws of Maryland 2001. (Appendix G)

The legislation requires that adult criminal courts make a decision on whether to transfer to the juvenile court a youth who is alleged to have committed an offense excluded from the

jurisdiction of the juvenile court within ten days after the date of a transfer hearing. In addition, a hearing on a motion requesting that a child be held in a juvenile facility pending a transfer determination must be held not later than the next court day, unless extended by the court for good cause shown.⁶⁵

To further speed the transfer consideration process the legislation clarified that regardless of whether the District Court has criminal jurisdiction over the case, at a bail review or preliminary hearing it may order that a study concerning the youth be made.⁶⁶ Moreover, the District Court may order that the youth be held in a secure juvenile facility pending a transfer determination.

The law now requires specific time frames for hearings and decisions on transfer when a defendant remains in adult custody after a bail review hearing, is under age 18, and is eligible for transfer to the juvenile court. In the case of a youth charged with a felony, the District Court must now indicate on the case file and in computer records that the case involves a detained youth, and set a preliminary hearing to be held within 15 days after the bail review hearing. When a youth is charged with a misdemeanor in the District Court, the District Court must indicate on the case file and in computer records that the case involves a detained youth, hold a transfer hearing within 30 days after the filing of the charging document, and require that prompt notice be given to counsel for the youth, or if unrepresented, to the Office of the Public Defender.⁶⁷ When a circuit court receives a case involving a detained juvenile defendant from the District Court the circuit court must set a transfer hearing to be held within 30 days after the filing of the charging document.

C. Youth Charged, But Not Convicted Of, an Excluded Offense Should Be Eligible for Transfer to the Juvenile Justice System If Convicted of a Lesser Offense.

Youth who are charged with serious crimes excluded from the jurisdiction of the juvenile court may be convicted of lesser crimes as adults, even if they are not found guilty of the more serious offense which formed the basis for their exclusion from the juvenile justice system. When the charges that are a predicate to criminal jurisdiction do not result in conviction, it is unfair to continue using the original charge as the basis for adult criminal jurisdiction without requiring the criminal court, at sentencing, to consider the possibility of transfer to the juvenile justice system for disposition.

The law should be amended to require youth who are excluded from juvenile court jurisdiction, but not convicted of the offense which was the basis for that exclusion, to be considered for transfer back to juvenile court for disposition. When the charges that are a predicate to criminal jurisdiction do not result in conviction, the criminal court should be required to consider, at sentencing, whether transfer to juvenile court for disposition is appropriate.

If the transfer is granted, the same criminal court judge should be cross-designated as a juvenile court and should enter the juvenile disposition. Accordingly, criminal cases excluded from the jurisdiction of the juvenile court should be assigned to judges who are eligible to hear juvenile cases under Courts & Judicial Proceedings Article, § 3-803.

It is important that juvenile court judges be interested and qualified in juvenile delinquency and other children, youth and family legal issues. As the Coalition for Juvenile Justice urged in their highly regarded 1998 Annual Report to the President, Congress, and the Office of Juvenile Justice and Delinquency Prevention: “[J]udges . . . selected for service in the juvenile or family court should be chosen for their interest in legal issues involving children and youth and the family, and they

should be given the specialized training to enable them to perform their tasks most effectively. This training should be comprehensive and multidisciplinary.”⁶⁸

The Juvenile Causes Act already provides that “[t]o the extent feasible” judges assigned to the juvenile court should have an interest in serving in that capacity, the necessary training or experience, and the proper temperament.⁶⁹ Nevertheless, the authority of the administrative judge and the Chief Judge to determine eligibility should be extended and clarified. A specific requirement should be added to Court & Judicial Proceedings Article, §3-803, that those eligible to be juvenile judges shall have a current working knowledge of the resources and services available in the juvenile justice system.

Suggested legislative language to implement this recommendation is included in Appendix D.

D. Further Study is Needed as to Whether Additional Resources Should Be Allocated to the Waiver and Transfer Decision Making Process.

Those involved in the transfer (“reverse waiver”) process should have adequate resources for proper investigations and appropriate training. This includes State’s Attorneys, Office of the Public Defender, the Department of Juvenile Justice, and the Courts. By providing additional resources it is more likely that each will be able to process transfer cases in a more expeditious manner. However, because the Commission was unable to fully examine this issue and the complexities raised by the fact that there are different funding sources for each of the aforementioned agencies, this issue will require further investigation and discussion.

E. A New Commission on Juvenile Justice Jurisdiction, Similar in Structure and Representation to the Current Commission, Should Be Established in 3 to 5 Years.

The new Commission should be charged with considering juvenile and adult jurisdiction issues in light of actual data, disproportionate minority representation among those youth excluded and waived from the jurisdiction of the juvenile court, and any changes in Federal law.

F. A Youthful Offender Program Merits Further Consideration By the Department of Juvenile Justice.

Judges Dennis M. McHugh and David W. Young raised concerns about the lack of adequate treatment options for older youth in the juvenile justice system, and proposed that the Commission study the creation of a “Youthful Offender” program. Judges McHugh and Young identified a category of youth who, under current practice might be eligible for treatment in the juvenile justice system, but are now waived to the adult system or are not transferred back from criminal court because there are limited programs for older juveniles. This program will be designed as a “last chance” program for youth on the verge of adulthood.

During discussions of the concept, members of the Commission found the idea intriguing. However, there was inadequate time for the Commission to fully consider this complex proposal. Accordingly, the proposal was not endorsed by the full Commission. Nevertheless, because the proposal submitted by Judges McHugh and Young raises significant public policy considerations, it has been included as Appendix N to promote further discussion and examination of the concept. The Youthful Offender Program merits further consideration by the Department of Juvenile Justice.

G. Until More Complete Data Are Obtained, the Commission Is Unable to Recommend Any Fundamental Changes in Maryland Juvenile Jurisdiction.

Obtaining clear, concise and linkable data from different agencies presents a significant challenge in researching jurisdictional issues. In Dr. Cindy Smith's report entitled "Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report," she noted that:

The most evident policy issue of the current research project is the difficulty in tracking youths from one agency to another. There are no unique identifiers for youths due to confidentiality issues. To gather adequate information about youths in the juvenile and criminal justice systems, researchers and practitioners must be able to identify youths across systems to gain the "big picture" perspective on a given youth. For example, DJJ collects and retains data up to the court outcome, but DJJ files do not contain the court outcome if the youth is released at the court hearing or is waived to the adult system. These data are kept in adult court and DPSCS or Probation and Parole records, respectively. As a result, DJJ data systems and those of other agencies may be adequate for their agency mission, but incomplete from the more global "what happened to this child?" perspective. Additionally, these systems are not linked to events prior to contact with DJJ (i.e., CINA, education).⁷⁰

Recommendation E, page 55, suggests the creation of a new Commission on Juvenile Justice Jurisdiction in 3 to 5 years. Prior to any movement on this recommendation, efforts should be made to create a workgroup to develop protocols for an information technology system that would allow for the sharing of information, in accordance with applicable federal and state laws. Without the foundation of this data, a new Commission will be facing the same issues and problems encountered by the current one.

H. Judicial Discretion to Waive and Transfer Should Be Maintained.

Most youth excluded from the juvenile justice system are eligible to seek transfer. The good sense of conscientious judges is the best protection against injustice in the waiver and transfer process. To help ensure the best decision making, judges who are participants in the waiver and

transfer process should be familiar with the treatment resources, services, and classification issues in the juvenile justice system. Criminal cases excluded from the jurisdiction of the juvenile court should be assigned to judges who are eligible to hear juvenile cases. Eventually, all judges who hear criminal cases should be qualified and eligible to hear juvenile cases. A requirement should be added that those eligible to be juvenile judges shall have a current working knowledge of the resources and services available in the juvenile justice system. Appendix D contains legislative language to implement this recommendation.

VII. ENDNOTES

1. Office of Juvenile Justice and Delinquency Prevention, "Juvenile Accountability Incentive Block Grants Program Guidance Manual", p.6; 28 CFR § 35.501(a).
2. Office of Juvenile Justice and Delinquency Prevention, September, 1999, "Juvenile Offenders and Victims: 1999 National Report," p.86-87.
3. Unlike every other jurisdiction in Maryland, in Montgomery County the District Court has jurisdiction over juvenile causes and sits as the juvenile court. During the 2001 Session the General Assembly passed legislation which transferred jurisdiction over juvenile causes in Montgomery County from the District Court to the Circuit Court, effective March 1, 2002. Chapter 414, Laws of Maryland 2001.
4. In Montgomery County the juvenile court remained in District Court.
5. Appendix H contains the jurisdictional laws in effect as of the date this Report is issued, while Appendix I contains the law effective October 1, 2001. A table of comparable sections is included in Appendix J.
6. *In re Gault*, 387 U.S. 1 (1967) (notice of charges, right to counsel, privilege against self-incrimination, right to confrontation and cross-examination); *In re Winship*, 397 U.S. 358 (1970) (proof beyond a reasonable doubt); *Breed v. Jones*, 421 U.S. 519 (1975) (no double jeopardy).
7. The eight factors identified by the *Kent* court (as those used by the District of Columbia) were: 1. The seriousness of the alleged offense; 2. Whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner; 3. Whether the alleged offense was against persons or against property; 4. The merit of the complaint; 5. The desirability of trial and disposition of the entire offense in one court when the juvenile's associates are adults who will be charged with a crime; 6. The sophistication and maturity of the juvenile; 7. The record and previous history of the juvenile; and, 8. The prospects for adequate protection of the public and the likelihood of rehabilitation. 383 U.S. at 566-68.
8. Griffin, P., Torbet, P., and Szymanski, L. 1998. *Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, pp. 3-4. See Courts and Judicial Proceedings Article, §3-817; MD Rule 11-113.
9. See Office of Juvenile Justice and Delinquency Prevention, December, 1998, "Guide for Implementing the Balanced and Restorative Justice Model."
10. Snyder, H., and Sickmund, M. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, p. 102; Griffin, P., *et al.* (1998) at p. 1.
11. Griffin, P. 2000. "Frequently Asked Questions." *State Juvenile Justice Profiles*. Pittsburgh, PA: NCJJ. Online. <http://www.ncjj.org/stateprofiles/>.
12. Snyder, H., Sickmund, M., and Poe-Yamagata, E. 2000. *Transfers to Criminal Court in the 1990's: Lessons Learned From Four Studies*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, p.39.
13. Griffin, P., *et al.* (1998) at p. 3.
14. Griffin, P. (2000).

15. While a person who is less than 18 when they commit 1st degree murder may not be sentenced to death, Article 27, § 412(g), a child as young as seven could be waived to adult court for the capital crime of first degree murder. Although in 1994 Maryland abolished the common law rule that provided a rebuttable presumption that a child 7 to 14 lacks criminal capacity, Chapter 629, Laws of Maryland 1994, the defense of infancy was not abolished. The burden is on a juvenile offender to introduce sufficient evidence to raise the issue of incapacity, at which time the State must show that the youth knew the difference between right and wrong.
16. The juvenile court may, after a summary review, waive its jurisdiction without a hearing for a youth who has previously been waived. CJP § 3-817(g).
17. Griffin, P. (2000); CJP § 3-804(e).
18. As part of code revision, effective October 1, 2001, this Section has been recodified as § 4-202 of the Criminal Procedure Article, Chapter 10, Laws of Maryland 2001.
19. Griffin, P. (2000); Article 27, § 594A.
20. Under legislation recommended by this Commission, the transfer statute was amended to require victim impact statements to be considered. Chapter 463, Laws of Maryland. (Appendix I). *See* Criminal Procedure Article, §4-202(i)(2).
21. Torbet, P., Griffin, P., Hurst, H. and MacKenzie, L. 2000. *Juveniles Facing Criminal Sanctions: Three States That Changed the Rules*. Washington, DC: Office of Juvenile Justice and Delinquency Prevention.
22. *Id.*, pp. 44-45.
23. *Id.*, p. 45.
24. Griffin, P. (2000).
25. Griffin, P., *et al.* (1998) at p. A-3.
26. *Id.*
27. Snyder, H., *et al.*, (2000) at p.4.
28. Griffin, P. (2000).
29. Torbet, P., *et al.* (2000).
30. Torbet, P., *et al.* (2000) at pp. 4-5.
31. Griffin, P. (2000).
32. Torbet, P., *et al.* (2000) at pp. 43-44.
33. Torbet, P. and Szymanski, L., November, 1998, "State Legislative Responses to Violent Juvenile Crime: 1996-1997 Update." Washington, DC: Office of Juvenile Justice and Delinquency Prevention, p.7.
34. 18 years old. *See* Article 1, § 24, Annotated Code of Maryland.

35. Torbet, P. and Szymanski, L., (1998), p.6.
36. Torbet, P., Gable, R., Hurst, H., Montgomery, I., Szymanski, L., and Thomas, D., July, 1996, "State Responses to Serious and Violent Juvenile Crime." Washington DC: Office of Juvenile Justice and Delinquency Prevention, pp. 28-30.
37. *Id.*
38. Smith, C., Craig, K., Block, K., Patrick A., and Hall A., August 2001. "Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report," Baltimore, MD. Bureau of Criminal Justice Research Group, University of Baltimore, at p. 18. (*See* Executive Summary, Appendix L) (Full Report available online at <http://home.ubalt.edu/ntygsmit/persweb/research.htm>)
39. *Id.*
40. NCCD, August, 1999, "Characteristics of Maryland Juvenile Offenders Transferred to the Adult System in FY98: Judicial Waiver." (Appendix M)
41. NCCD, August, 1999, "Youth Waived to Juvenile Court or Retained in the Adult System;" NCCD, May, 1999, "Background Data: Juveniles Transferred to Adult Court;" NCCD, August, 1999, "Characteristics of Maryland Juvenile Offenders Transferred to the Adult System in FY98: Judicial Waiver;" NCCD, August, 1999, "Youth Waived to Juvenile Court or Retained in the Adult System;" (Appendix M) This study only included youth who were arrested as adults for excluded offenses and were subsequently involved in transfer hearings. It did not include those youth who were charged as adults but did not seek to have their cases transferred to the juvenile court.
42. Altschuler, D., 1993 and 1994, "Minority Overrepresentation in the Maryland Juvenile Justice System: Statistics and Explanatory Factors," Juvenile Justice Advisory Council.
43. Mr. Simms is currently serving as Secretary of Public Safety and Correctional Services.
44. Maryland Department of Juvenile Justice, December, 1995, "The Disproportionate Representation of African-American Youth at Various Decision Points in the State of Maryland," (DJJ Report) at 67. Concern was also expressed by a task force report issued by the Maryland Cabinet Counsel on Criminal and Juvenile Justice. Task Force on Juvenile Justice Reform, 1997. *Making Communities Safe: Effective Juvenile Justice in Maryland*, pp. 15, 45-46.
45. DJJ Report at 70.
46. We also know from DJJ's own data that white youth are more likely than African American youth to receive treatment rather than incarceration. "Race Predicts Handling of Many Young Criminals," *Baltimore Sun*, June 25, 1999, p.A1.
47. NCCD, FY 98, "Characteristics of Baltimore City Youth Arrested as Adults and Involved in Transfer Hearings;" (Appendix M) Baltimore City Police Department, "Juveniles Booked as Adults for the Year 1999" Statistical Summary compiled by the Juvenile Detention Unit; U.S. Census Bureau, Census 2000, Online http://www.op.state.md.us/msdc/census/cen2000/sf1/sumyprof/sumy_cnty.pdf.
48. NCCD, August, 1999, "Youth Waived to Juvenile Court or Retained in the Adult System," Figure 1, Table 1. (Appendix M)
49. Smith, C., *et al.*, (August 2001) at p.25.

50. Office of Juvenile Justice and Delinquency Prevention, December, 1999 “Minorities in the Juvenile Justice System,” at 2.
51. Building Blocks for Youth, 2000, “And Justice for Some: Differential Treatment of Minority Youth in the Justice System,” at 28.
52. *Id.*
53. Office of Juvenile Justice and Delinquency Prevention, September, 1999, “Juvenile Offenders and Victims: 1999 National Report,” p.209
54. *See*, Torbet, P., *et al.* (2000) at p.44 (“Minorities are overrepresented in the offender categories being subjected to stricter transfer and sentencing provisions.”)
55. OJJDP, Minorities in the Juvenile Justice System at p.3.
56. *Id.* at 13. Human Rights Watch also concluded that the research “suggest[s] that race and ethnicity may influence the decision to try a child as an adult.” Human Rights Watch, November, 1999, “No Minor Matter: Children in Maryland’s Jails,” p. 20.
57. Building Blocks for Youth, (2001), “Youth Crime/Adult Time: Is Justice Served?” Executive Summary at 1-2.
58. <http://www.aecf.org/publications/advocasey/winter2000/juvenile/juv8.htm>.
59. Rhoden, E., Spring/Summer 1994, “Disproportionate Minority Representation: First Steps to a Solution.” Juvenile, p.9.
60. 42 U.S.C. § 5633(a)(23) requires that each State’s juvenile justice plan: “address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.” *See also*, <http://ojjdp.ncjrs.org/dmc/index.html>
61. *See*, Office of Juvenile Justice and Delinquency Programs, December, 1998, “Disproportionate Minority Confinement: Lessons Learned from Five States.” These grants were targeted at eliminating bias, recognizing that “processing decisions in many State and local juvenile justice systems are not racially or culturally neutral.” *Id.* at 2. *See also*, Clouser, M., September, 1994, “Reducing Minority Youth Over-Representation,” Pennsylvania Progress, Juvenile Justice Achievements of the Pennsylvania Commission on Crime and Delinquency.
62. Redding, R., 1997, “Juvenile Offenders in Criminal Court and Adult Prison: Examining Legal Issues,” pg. 7. *See also*, Task Force on Juvenile Justice Reform. *Making Communities Safe: Effective Juvenile Justice in Maryland*, p. 39; Mendel R., 2000, “*Less Hype, More Help: Reducing Juvenile Crime, What Works - and What Doesn’t*,” American Youth Policy Forum, pp. 39-41.
63. Maryland Department of Juvenile Justice, May 22, 2001, “Request for Research Proposals for a Qualitative Study to Determine Why Over Representation of Minority Youth Exists in the Maryland Juvenile Justice System,” Solicitation N° 02-JJ-031.
64. It should be emphasized that the DJJ study focuses only on disparities in the juvenile justice system, not on youth excluded or waived to the adult court.

65. Adult criminal courts have had the authority to order that a minor be held in a juvenile facility pending a determination on a petition to transfer their case to juvenile court. Article 27, § 594A(g). This change simply required prompt action on any such motion.

66. These studies provide the court with necessary information concerning the five factors it must consider in making a transfer decision. *See* Article 27, § 594A(e). While the practice in Baltimore City is to have the Court Medical Office provide these studies, in most jurisdictions such studies are conducted by the Department of Juvenile Justice. The legislation also mandated that the court exercising criminal jurisdiction consider any victim impact statement in determining whether to transfer jurisdiction, a consideration that had been discretionary.

67. Ideally, counsel should be in contact with child defendants immediately after arrest and be present at their first court appearance. Young, M., August, 2000, "Providing Effective Representation for Youth Prosecuted as Adults," Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, p. 3.

68. Coalition for Juvenile Justice, 1998. *A Celebration or a Wake?: The Juvenile Court After 100 Years*. Washington, DC. p. 47.

69. Courts & Judicial Proceedings Article, § 3-803(b).

70. Smith, C., *et al.* (August 2001) at p. 60-61.

VIII. REFERENCES & BIBLIOGRAPHY

A. Publications Reviewed

Baltimore City Police Department, "Juveniles Booked as Adults for the Year 1999" Statistical Summary compiled by the Juvenile Detention Unit

Building Blocks for Youth, 2000, "And Justice for Some: Differential Treatment of Minority Youth in the Justice System"

Building Blocks for Youth, 2001, "Youth Crime/Adult Time: Is Justice Served?" Executive Summary

Clouser, M., September, 1994, "Reducing Minority Youth Over-Representation," Pennsylvania Progress, Juvenile Justice Achievements of the Pennsylvania Commission on Crime and Delinquency

Coalition for Juvenile Justice, 1998. *A Celebration or a Wake?: The Juvenile Court After 100 Years*. Washington, DC.

Griffin, P., Torbet, P., and Szymanski, L. 1998. *Trying Juveniles as Adults in Criminal Court: An Analysis of State Transfer Provisions*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention

Griffin, P. 2000. "Frequently Asked Questions." *State Juvenile Justice Profiles*. Pittsburgh, PA: NCJJ. Online. <http://www.ncjj.org/stateprofiles/>.

Human Rights Watch, November, 1999, "No Minor Matter: Children in Maryland's Jails"

Maryland Cabinet Counsel on Criminal and Juvenile Justice. Task Force on Juvenile Justice Reform, 1997. *Making Communities Safe: Effective Juvenile Justice in Maryland*

Maryland Department of Juvenile Justice, December, 1995, "The Disproportionate Representation of African-American Youth at Various Decision Points in the State of Maryland"

Maryland Department of Juvenile Justice, May 22, 2001, "Request for Research Proposals for a Qualitative Study to Determine Why Over Representation of Minority Youth Exists in the Maryland Juvenile Justice System," Solicitation N^o 02-JJ-031.

Mendel R., 2000, "*Less Hype, More Help: Reducing Juvenile Crime, What Works - and What Doesn't*," American Youth Policy Forum

NCCD, May 1999, "Background Data: Juveniles Transferred to Adult Court"

NCCD, FY98, “Characteristics of Baltimore City Youth Arrested as Adults and Involved in Transfer Hearings”

NCCD, August 1999, “Characteristics of Maryland Juvenile Offenders Transferred to the Adult System in FY98: Judicial Waiver.”

NCCD, August 1999, “Youth Waived to Juvenile Court or Retained in the Adult System”

Redding, R., 1997, "Juvenile Offenders in Criminal Court and Adult Prison: Examining Legal Issues"

Rhoden, E., Spring/Summer 1994, “Disproportionate Minority Representation: First Steps to a Solution.” Juvenile

Smith, C., Craig, K., Block, K., Patrick, A., and Hall, A., August 2001, “Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report.” Baltimore, MD. Bureau of Criminal Justice Research Group, University of Baltimore.

Snyder, H., and Sickmund, M. 1999. *Juvenile Offenders and Victims: 1999 National Report*. Office of Juvenile Justice and Delinquency Prevention

Snyder, H., Sickmund, M., and Poe-Yamagata, E. 2000. *Transfers to Criminal Court in the 1990's: Lessons Learned From Four Studies*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention

Torbet, P., Griffin, P., Hurst, H. and MacKenzie, L. 2000. *Juveniles Facing Criminal Sanctions: Three States That Changed the Rules*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention.

Torbet, P. and Szymanski, L., November, 1998, “State Legislative Responses to Violent Juvenile Crime: 1996-1997 Update.” Washington, DC: Office of Juvenile Justice and Delinquency Prevention, p.7.

Torbet, P., Gable, R., Hurst, H., Montgomery, I., Szymanski, L., and Thomas, D., July, 1996, “State Responses to Serious and Violent Juvenile Crime.” Washington DC: Office of Juvenile Justice and Delinquency Prevention

U.S. Census Bureau, Census 2000, Online http://www.op.state.md.us/msdc/census/cen2000/sf1/sumyprof/sumy_cnty.pdf.

Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, December 1998, “Disproportionate Minority Confinement: Lessons Learned from Five States”

Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, December 1998, “Guide for Implementing the Balanced and Restorative Justice Model”

Washington, DC: U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, “Juvenile Accountability Incentive Block Grants Program Guidance Manual”

IX. APPENDICES

- A. Authorizing legislation (includes General Assembly's Charge to the Commission), Article 83C, §2-133
- B. Subcommittee Membership
- C. Presentations
- D. Proposed legislation to modify transfer eligibility
- E. Proposed legislation regarding data collection
- F. Prior Commission Reports to Governor and General Assembly
 - September 2000
 - September 1999
- G. Commission Sponsored legislation (enacted)
- H. 2000 Maryland Laws on Jurisdiction, Transfer & Waiver
 - Courts & Judicial Proceedings Article, §§ 3-804 & 3-817
 - Art. 27, § 594A
- I. 2001 Maryland Laws on Jurisdiction, Transfer & Waiver
 - Courts & Judicial Proceedings Article, §§ 3-8A-03 & 3-8A-04,
 - Criminal Procedure Article, § 4-202
- J. Table of Comparable Sections
- K. Results of Survey of Commission Members
- L. Executive Summary to the "Maryland Department of Juvenile Justice Partnership to Study Waiver Effects: A Final Report" of Dr. Cindy Smith
- M. National Council on Crime Delinquency Reports
 - Background Data: Juveniles Transferred to Adult Court - May 1999
 - Judicial Waiver - August 1999
 - Youth Waived to Juvenile Court or Retained in the Adult System - August 1999
 - Characteristics of Baltimore City Youth Arrested as Adults and Involved in Transfer Hearings FY98 - March 2000
- N. Proposed Legislation "Youthful Offender Program To Be Created in this State" submitted by The Honorable Dennis M. McHugh

O. Descriptions of DJJ and DPSCS Programs